

§ 264.73

(2) A State must exceed the Contingency Fund MOE level to keep any of the contingency funds that it received. It may be able to retain a portion of the amount of contingency funds that match countable State expenditures, as defined in §264.0, that are in excess of the State's Contingency Fund MOE level, after the overall adjustment required by section 403(b)(6)(C) of the Act.

(b) A State must complete an annual reconciliation, in accordance with §264.73, in order to determine how much, if any, of the contingency funds that it received in a fiscal year it may retain.

(c) If required to remit funds under the annual reconciliation, a State must remit all (or a portion) of the funds paid to it for a fiscal year within one year after it has failed to meet either the Food Stamp trigger or the Unemployment trigger, as defined in §264.0, for three consecutive months.

(d) A State must expend contingency funds in the fiscal year in which they are awarded.

(e) A State may not transfer contingency funds to the Discretionary Fund of the CCDF or the SSBG.

(f) A State must follow the restrictions and prohibitions in effect for Federal TANF funds, including the provisions of §263.11 of this chapter, in its use of contingency funds.

§ 264.73 What is an annual reconciliation?

(a) The annual reconciliation involves the calculation, for a fiscal year, of:

(1) The amount of a State's qualifying expenditures;

(2) The amount by which a State's countable State expenditures, as defined in §264.0, exceed the State's required Contingency Fund MOE level; and

(3) The amount of contingency funds that the State may retain or must remit.

(b) If a State exceeded its required Contingency Fund MOE level, it may be able to retain some or all of the contingency funds that it received.

(c) A State determines the amount of contingency funds that it may retain

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by performing the following calculations:

(1) From the lesser of the following two amounts:

(i) The amount of contingency funds paid to it during the fiscal year; or

(ii) Its countable State expenditures, as defined in §264.0, minus its required Contingency Fund MOE level, multiplied by:

(A) The State's Federal Medical Assistance Percentage (FMAP) applicable for the fiscal year for which funds were awarded; and

(B) $\frac{1}{12}$ times the number of months during the fiscal year for which the State received contingency funds.

(2) Subtract the State's proportionate remittance (as reported to the State by ACF) for the overall adjustment of the Contingency Fund for that fiscal year required by section 403(b)(6)(C) of the Act.

§ 264.74 How will we determine the Contingency Fund MOE level for the annual reconciliation?

(a)(1) The Contingency Fund MOE level includes the State's share of expenditures for AFDC benefit payments, administration, and FAMIS; EA; and the JOBS program for FY 1994.

(2) We will use the same data sources and date, i.e., April 28, 1995, that we used to determine the basic MOE levels for FY 1994. We will exclude the State's share of expenditures from the former IV-A child care programs (AFDC/JOBS, Transitional and At-Risk child care) in the calculation.

(b) We will reduce a State's Contingency Fund MOE level by the same percentage that we reduce the basic MOE level for any fiscal year in which we reduce the State's annual SFAG allocation to provide funding to Tribal grantees operating a Tribal TANF program.

§ 264.75 For the annual reconciliation, what are qualifying State expenditures?

(a) Qualifying State expenditures are expenditures of State funds made in the State TANF program, with respect to eligible families, for the following:

(1) Cash assistance, including assigned child support collected by the State, distributed to the family, and disregarded in determining eligibility